

COMMENTS

The enclosed is responsive to the Examiner's Office Action mailed on 7/16/08 and is being filed pursuant to a Request for Continued Examination (RCE) as provided under 37 CFR 1.114. At the time the Examiner mailed the Office Action claims 1-30 were pending. By way of the present response the Applicant has: 1) amended claims 1, 10, 19 and 28; and, 2) not canceled or added any claims. The Applicant respectfully requests reconsideration of the present application and the allowance of claims 1-30.

35 U.S.C. 103 Rejections

The Examiner has maintained a rejection of the Applicant's independent claims under 35 USC 103 in view of the combination of U.S. Pub. App. No. 2003/0005173 ("Shah") and U.S. Pat. No. 7,120,685 ("Ullman"). See, Examiner's Office Action mailed 7/16/08, p. 2.

Rather than pick apart differences between the Applicant's independent claims as previously presented and the Shah reference, in the interests of efficiency and moving the present application towards allowance, the Applicant has herewith decided to steer the claim coverage in a direction that the Applicant believes will provide a more straightforward basis for judging the patentability of the present application.

Specifically, the Applicant notes that the Applicant's specification describes different severity levels in greater detail and granularity than either the Shah or Ullman references. In particular, the Examiner's attention is drawn to Fig. 6a of the Applicant's specification which outlines a wide range of possible severity levels. The Applicant has amended the independent claims of the present application to recite various combinations of severity levels consistent with the disclosure of Fig 6a, paragraphs [0021] and [0022] as well as specific

examples provided in the Applicant's specification (such as the example discussed in paragraphs [0032] to [0035] in reference to Fig. 4 of the Applicant's specification).

The Applicant's previously presented independent claims lacked specific details concerning specific severity levels. As such the Examiner employed paragraph [0050] of Shah to cover the Applicant's recitation of more than one severity level. See, Examiner's Office Action, mailed 07/16/08, p. 2. Paragraph [0050] of Shah may disclose the existence of multiple severity levels but does not offer any description of specific features for the various severity levels nor any specific distinctions between them. The Applicant therefore respectfully submits that Shah simply does not provide sufficient disclosure to meet the Applicant's severity levels as now claimed. As such, the Applicant respectfully submits the Applicant's newly presented independent claims are allowable over the Examiner's combination.

REMARKS

Applicant respectfully submits that all rejections have been overcome and that all pending claims are in condition for allowance.

If there are any additional charges, please charge them to our Deposit Account Number 02-2666. If a telephone conference would facilitate the prosecution of this application, the Examiner is invited to contact Robert B. O'Rourke at (408) 720-8300.

Respectfully submitted,
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